

**BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2013-15-C**

IN RE:)
)
)
Application of Nexus Communications, Inc.)
for Designation as a Wireless Eligible)
Telecommunications Carrier for Low Income)
Support Only Pursuant to 47 USC § 214(e))

VERIFIED DIRECT TESTIMONY OF STEVEN FENKER

1 **Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS**

2 A. My name is Steven Fenker and my business address is 2631 Morse Road, Columbus,
3 Ohio 43224.

5 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

6 A. I am testifying on behalf of Nexus Communications, Inc. (“Nexus” or the “Company”),
7 the Applicant in this proceeding.

9 **Q. BY WHOM ARE YOU EMPLOYED AND WHAT POSITION DO YOU HOLD?**

10 A. I am employed by Nexus and I am the Owner and President of the Company.

12 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND EMPLOYMENT**
13 **BACKGROUND.**

1 A. I have held management positions in the telecommunications industry for 28 years. I
2 hold a Bachelors of Arts (cum laude) from Ohio University and a Juris Doctor from
3 Cleveland Marshall College of Law. My experience and responsibilities include
4 compliance with governmental mandates, regulatory issues, and negotiation of
5 agreements.

6
7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**
8 **COMMISSIONS?**

9 A. Yes. I have submitted written testimony on behalf of Nexus before this Commission in
10 its wireline ETC designation docket, as well as before state regulatory commissions in
11 Arkansas, California, Colorado, Georgia, Iowa, Illinois, Indiana, Kansas, Louisiana,
12 Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Jersey, Ohio, Rhode
13 Island, Utah, West Virginia and Wisconsin.

14
15 **Q. HAVE YOU REVIEWED THE APPLICATION AND OTHER DOCUMENTS**
16 **FILED ON BEHALF OF NEXUS IN THIS PROCEEDING?**

17 A. Yes. I would like to incorporate those documents and that information into this
18 testimony by reference.

19
20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

21 A. The purpose of my testimony is to demonstrate that Nexus fully satisfies the
22 requirements, under the Rules of the Federal Communications Commission (“FCC”) and
23 26 S.C. CODE ANN. REGS. § 103-690 for designation as an Eligible Telecommunications

Carrier (“ETC”) in the State of South Carolina within the service area proposed in the Company’s Application and, further, that grant of this designation is in the public interest.

Q. PLEASE BRIEFLY DESCRIBE NEXUS AND ITS OPERATIONS.

A. Nexus is an Ohio corporation, headquartered in Columbus, Ohio. Nexus has been in business since 2000. Nexus became a competitive local exchange carrier in 2001 and received its first ETC designation in June 2006. Nexus initially began providing its services over wireline technology, and has responded to strong subscriber demand by offering wireless technology as well. Nexus was one of the first telecommunications providers to recognize the low income market segment as a business opportunity rather than a regulatory burden. Its success in the market is based on its willingness to tailor its services to the specific needs of low income consumers, including the budget management tools and mobility that prepaid wireless services provide. Nexus has been designated as an ETC in 27 states. It provides wireline service as an ETC in 13 states, and wireless service in 18 states. Specifically, Nexus provides service to low income consumers using wireline technology in South Carolina and in Alabama, Florida, Kentucky, North Carolina, Oklahoma, Tennessee, and Texas; it serves consumers using both wireline and wireless technology to Low Income participants in Arkansas, Illinois, Kansas, Louisiana, Michigan, Mississippi, and Wisconsin; and it uses only wireless technology to serve low income consumers in California, Georgia, Iowa, Maine, Maryland, Missouri, Nevada, New Jersey, Ohio, Rhode Island and West Virginia.

1 **Q. PLEASE BRIEFLY DESCRIBE THE SERVICES THAT NEXUS INTENDS TO**
2 **PROVIDE IN SOUTH CAROLINA.**

3 A. Nexus expects to offer a menu of prepaid wireless plans to South Carolina consumers.
4 These plans will consist of a set number of prepaid minutes per month, with or without
5 rollover, to make voice calls or texts as the customer prefers. Nexus plans to offer its
6 prepaid wireless services to low-income consumers, especially those eligible for the
7 Lifeline program.

8
9 **Q. HOW WILL NEXUS' SERVICE OFFERINGS IN SOUTH CAROLINA BE**
10 **DISTINCT FROM THOSE OFFERED BY OTHER WIRELESS CARRIERS?**

11 A. Among other things, Nexus delivers handsets to its Lifeline subscribers via Fed Ex
12 SmartPost or via brick-and-mortar retail settings, which lessens the risk of mistake or
13 fraud. Nexus has never utilized temporary “tents” or “truck of car” marketing of Lifeline
14 services due to the overwhelmingly negative perception it places on the Lifeline industry.
15 In addition, Nexus engages in extensive outreach efforts to fulfill the key objective of the
16 Low Income program – providing the supported telecommunications and related services
17 to low income Americans. Its efforts include a program, recognized by the Federal-State
18 Joint Board on Universal Service, in which its mobile information vehicles visit
19 economically disadvantaged neighborhoods and provide information about the Low
20 Income program. Thus, Nexus brings information about the Lifeline program and its
21 opportunities and advantages to low income neighborhoods and populations in ways that
22 other wireless ETCs do not.

1 **Q. WHAT RELIEF DOES THE COMPANY SEEK IN ITS APPLICATION?**

2 A. Nexus seeks designation as a wireless ETC in the State of South Carolina for purposes of
3 receiving federal universal service Lifeline support. As with its current wireline Lifeline
4 service in South Carolina, the Company does not seek to receive state or federal high cost
5 fund support or support from any other universal service funds. In connection with the
6 requested designation, and to the extent deemed necessary by the Commission, Nexus
7 respectfully requests waiver of those provisions of S.C. CODE ANN. REGS. § 103-690 that
8 at this time differ from the more recently adopted FCC Rules and the FCC's Lifeline
9 Reform Order.

10
11 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSED SERVICE AREA FOR**
12 **ETC DESIGNATION.**

13 A. As discussed below, Nexus seeks designation as an ETC in the non-rural ILEC service
14 areas in South Carolina. Toward this end, the Company submitted a list of the wire
15 centers in South Carolina where Nexus proposes to offer Lifeline services as Exhibit A to
16 its Application.

17
18 **Q. PLEASE DESCRIBE HOW THE COMPANY WILL PROVIDE ITS SERVICES**
19 **IN SOUTH CAROLINA.**

20 A. Nexus intends to operate as a wireless reseller, purchasing wireless minutes on a
21 wholesale basis from Verizon Wireless. Nexus will apply its own expertise to manage
22 service plan design and pricing, marketing, and ongoing customer service operations.

1 **Q. WHAT ARE THE REQUIREMENTS FOR DESIGNATION AS AN ETC**
2 **PURSUANT TO FEDERAL AND SOUTH CAROLINA LAW?**

3 A. The primary requirements of Section 214 of the Communications Act of 1934 (“Act”)
4 with respect to designation as an ETC are that the requesting entity (i) be a common
5 carrier; (ii) offer the services that are designated for federal universal service support; and
6 (iii) advertise the availability of these services. Federal law requires that ETCs provide
7 the supported services using their own facilities or a combination of their own facilities
8 and resale of other carriers’ facilities unless they are granted forbearance from this
9 requirement. Notably, however, in early 2012, the FCC issued a decision (discussed
10 below) which establishes a protocol for grant of blanket forbearance to resellers based
11 upon satisfaction of specified conditions.¹ Additional conditions for ETC designation
12 include (i) the applicant’s certification that it will comply with service requirements
13 applicable to the support it receives; (ii) demonstration that the applicant will be able to
14 remain functional in emergency situations; (iii) demonstration that the applicant will
15 satisfy specified consumer protection and service quality standards; and (iv)
16 demonstration of financial and technical ability to provide the supported services.
17 Pursuant to S.C. CODE ANN. REGS. § 103-690, ETC designations may be granted only
18 when the designation will further state and federal universal service goals.

19
20 **Q. DOES NEXUS SATISFY THESE REQUIREMENTS?**

21 A. Yes.

¹ *See Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11, ¶ 368 (Feb. 6, 2012) (“Lifeline Reform Order”).

1 **Q. WILL NEXUS BE A COMMON CARRIER, AS DEFINED IN FEDERAL LAW?**

2 A. Yes. Section 332(c)(1)(A) of the Act specifically provides that providers of commercial
3 mobile radio services (wireless carriers) are to be regulated as common carriers, and the
4 FCC has clearly reiterated this point.

5
6 **Q. DOES NEXUS COMMIT TO PROVIDE THE SUPPORTED SERVICES**
7 **IDENTIFIED BY THE FCC’S RULES?**

8 A. Yes. The FCC’s Connect America Fund Order modified Section 54.101 of the FCC’s
9 rules, which defined the list of supported services.² The new rule indicates that the
10 universal service programs will support “voice telephony service,” which is defined by
11 four “supported services”: (i) voice grade access to the public switched network; (ii)
12 local usage; (iii) access to emergency services; and (iv) toll limitation. Following
13 designation as an ETC, as detailed in Nexus’ Application, the Company will provide each
14 of these services throughout its designated service area.

15
16 **Q. WILL NEXUS ADVERTISE THE AVAILABILITY OF THESE SUPPORTED**
17 **SERVICES USING MEDIA OF GENERAL DISTRIBUTION, AS REQUIRED BY**
18 **47 U.S.C. § 214(e)(1)(B)?**

19 A. Yes. The Company will advertise the availability of its Lifeline services using methods
20 reasonably calculated to effectively reach Lifeline-eligible customers in its service area as
21 required by Sections 54.201(d)(2) and 54.405(b) of the FCC’s Rules as well as S.C. CODE

² See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, FCC 11-161 ¶ 78 (rel. Nov. 18, 2011), *pets. for review pending sub nom. In re: FCC 11-161, No. 11-9900* (10th Cir. filed Dec. 18, 2011).

1 ANN. REGS. § 103-690. Towards this end, Nexus expects to advertise its Lifeline services
2 in a variety of ways, such as newspapers of general circulation, as well as television,
3 radio, and the Internet. The Company will expand these outreach efforts as necessary to
4 ensure that it reaches Lifeline-eligible customers. Further, Nexus will comply with all
5 FCC requirements pertaining to the content of this advertising, including the disclosures
6 required by Section 54.405(c) of the FCC's rules. Pursuant to S.C. CODE ANN. REGS. §
7 103-690(a)(7), Nexus provided an affidavit certifying its compliance with these
8 requirements as Exhibit F to its Application. A two-year plan for advertising and
9 outreach was submitted as Exhibit G to the Company's Application, pursuant to S.C.
10 CODE ANN. REGS. § 103-690 (C)(a)(1)(C). Additionally, an example of Nexus'
11 marketing material was submitted as an exhibit to the Company's FCC Compliance Plan
12 (Exhibit H to Nexus' Application), which was approved by the FCC on December 26,
13 2012.

14
15 **Q. HOW DOES NEXUS PROPOSE TO COMPLY WITH THE REQUIREMENT**
16 **THAT ETC CARRIERS PROVIDE SERVICES SUPPORTED BY FEDERAL**
17 **UNIVERSAL SERVICE SUPPORT MECHANISMS EITHER BY USE OF THEIR**
18 **OWN FACILITIES OR BY USE OF A COMBINATION OF THEIR OWN**
19 **FACILITIES AND RESALE?**

20 A. As noted, pursuant to the FCC's January 2012 Lifeline Reform Order, resellers are
21 granted blanket forbearance from the facilities requirement for low-income-only ETC
22 operations provided they meet specified conditions. These conditions include: (i)
23 provision of 911 and E911 service regardless of activation status or available minutes; (ii)

1 provision of E911-compliant handsets and replacement of non-compliant handsets to
2 Lifeline customers; (iii) filing of a compliance plan containing specific information
3 concerning both the carrier's service offerings and its compliance with ETC obligations
4 as set forth in the Lifeline Reform Order, including those aimed at preventing waste,
5 fraud and abuse within the Lifeline program. To this end, the FCC required ETCs
6 seeking such forbearance to submit a detailed Compliance Plan. Nexus submitted such a
7 Compliance Plan to the FCC, and that Plan was approved by the FCC on December 26,
8 2012. In addition, pursuant to S.C. CODE ANN. REGS. § 103-690(a)(6), Nexus provided
9 an affidavit certifying to its compliance with these requirements as Exhibit F to its
10 Application.

11
12 **Q. HOW WILL NEXUS MEET THE REQUIREMENT TO PROVIDE 911 AND E911**
13 **ACCESS TO ITS LIFELINE CUSTOMERS?**

14 A. Nexus: (1) provides its Lifeline subscribers with 911/E911 access at the time Lifeline
15 service is initiated, regardless of activation status and availability of minutes, and (2)
16 provides its Lifeline subscribers with E911-compliant handsets and replaces, at no
17 additional charge to the subscriber, noncompliant handsets of Lifeline-eligible
18 subscribers who obtain Lifeline-supported services. Nexus' practices provide access to
19 911/E911 services to the extent that these services have been deployed by its underlying
20 wireless carrier. Nexus commits to continue these practices going forward. The
21 Commission and consumers are assured that all Nexus subscribers will have available
22 access to emergency calling services at the time that Lifeline service is initiated, and that

1 such 911/E911 access will be available from Nexus handsets even if the account
2 associated with the handset has no minutes remaining.

3 Nexus uses Verizon Wireless as its underlying network carrier. Verizon Wireless
4 routes 911 calls from Nexus' subscribers in the same manner as 911 calls from Verizon
5 Wireless' own retail subscribers. To the extent that Verizon Wireless is certified in a
6 given PSAP territory, this 911 capability functions in the same manner for Nexus and its
7 subscribers.

8 Nexus also currently enables 911 emergency calling services for all properly activated
9 handsets regardless of whether the account associated with the handset is active or
10 suspended. Nexus will ensure that all handsets used in connection with its Lifeline
11 service offering will be E911-compliant. Indeed, Nexus' handsets have always been
12 E911-compliant. All Nexus handsets undergo a thorough quality inspection by Nexus
13 prior to being distributed to subscribers. All Nexus handsets are required to meet Nexus'
14 handset specifications, which ensure that the handset models meet all E911 requirements.
15 As a result, any existing Nexus subscriber that qualifies for and subsequently elects
16 Lifeline service will already have an E911-compliant handset provided by Nexus.
17 Additionally, any new subscriber that qualifies for and enrolls in Nexus' Lifeline
18 program is assured of receiving an E911-compliant handset as well, free of charge.

19
20 **Q. HAS NEXUS SUBMITTED A PROPOSED COMPLIANCE PLAN TO THE FCC?**

21 A. Yes. Nexus submitted its proposed Compliance Plan to the FCC, and its amended
22 Compliance Plan was approved by the FCC on December 26, 2012, confirming that the
23 Company's proposed operations comply with the FCC's rules for Lifeline providers.

1 **Q. DOES NEXUS SATISFY THE FCC’S ADDITIONAL ELIGIBILITY CRITERIA**
2 **FOR ETC DESIGNATION?**

3 A. Yes.

4
5 **Q. SPECIFICALLY, DOES NEXUS CERTIFY THAT IT WILL COMPLY WITH**
6 **ALL SERVICE REQUIREMENTS APPLICABLE TO LIFELINE SUPPORT**
7 **FUNDING?**

8 A. Yes. Nexus certifies that it will comply with the service requirements applicable to the
9 low-income support it receives as a result of designation as an ETC for the purposes of
10 providing Lifeline services.

11
12 **Q. HOW DOES NEXUS DEMONSTRATE ITS ABILITY TO REMAIN**
13 **FUNCTIONAL IN EMERGENCY SITUATIONS?**

14 A. As discussed in this testimony and in the Company’s Application, Nexus will utilize the
15 extensive and well-established Verizon Wireless network and facilities to provide Nexus’
16 wireless services. That network is capable of managing traffic spikes that may occur
17 during emergency situations and can reroute traffic in the event of damaged facilities. It
18 also has sufficient back-up power to ensure functionality if its external power supply is
19 unavailable. Indeed, it has repeatedly certified to the FCC that its network functions in
20 emergency situations.³ Verizon Wireless will provide the same functionality to Nexus
21 and Nexus’ customers as it provides to its own customers.

³ See, e.g., *Alltel Communications, LLC d/b/a Verizon Wireless 2011 Eligible Telecommunications Carrier Certification and Annual Report for the State of Georgia / Study Area Code (SAC) 229004*, WC Docket No. 09-197, at 7-9 (filed Sept. 30, 2011).

1 **Q. HOW DOES NEXUS INTEND TO SATISFY ALL THE CONSUMER**
2 **PROTECTION AND SERVICE QUALITY STANDARDS APPLICABLE TO ITS**
3 **PROPOSED ETC OPERATIONS?**

4 A. The FCC and this Commission have confirmed that a wireless ETC applicant may satisfy
5 this requirement through a commitment to comply with the CTIA Consumer Code.⁴
6 Nexus has already adopted the CTIA Code and willingly commits to comply with the
7 CTIA Code to ensure that it offers its subscribers the highest degree of protection and
8 service quality.

9
10 **Q. DOES NEXUS HAVE THE REQUISITE FINANCIAL AND TECHNICAL**
11 **QUALIFICATIONS TO PROVIDE THE PROPOSED SERVICES?**

12 A. Yes, it does. The Lifeline Reform Order explains that elements of these carrier
13 qualifications include (i) prior experience providing Lifeline service; (ii) length of the
14 carrier's business history; (iii) the degree to which the carrier's operations rely upon
15 Lifeline revenues; (iv) additional sources of revenue available to the carrier; and (v) the
16 carrier's regulatory history, specifically with respect to any enforcement or ETC
17 revocation actions. As discussed in its Application, Nexus has been in business since
18 2000, became a competitive local exchange carrier in 2001 and received its first ETC
19 designation in June 2006. It has been providing wireline services in South Carolina since
20 2009. Nexus now focuses on providing service to low-income consumers. Nexus was
21 one of the first telecommunications providers to recognize the low-income market
22 segment as a business opportunity rather than a regulatory burden. Nexus has been

⁴ See 47 C.F.R. § 54.202(a)(3).

1 designated as an ETC in a total of 27 states. Nexus does not seek, and will not accept,
2 High Cost support in any of those states. Nexus is successfully providing Lifeline
3 supported services in these states and has a steadily increasing subscriber base. Nexus'
4 management has many years of experience in the telecommunications industry. In order
5 to provide wireless Lifeline services, Nexus supplements the robust Verizon Wireless
6 network with its own network facilities, back-office and operations support systems,
7 which Nexus operates and are ideally suited to serve lower revenue subscribers. Nexus
8 has made a significant financial investment to evaluate, design, develop and integrate
9 these systems. With respect to this network investment, Nexus owns and operates its own
10 switching and other facilities located in the state of Ohio, which are housed in a Tier IV
11 co-location facility.

12
13 Nexus has good relationships with the commissions in the states in which it operates.

14
15 Moreover, Nexus is financially stable and fully capable of honoring its service
16 obligations to subscribers and federal and state regulatory obligations. Although Nexus
17 currently derives the majority of its revenue from the sale of prepaid wireless services,
18 Nexus does not rely exclusively on disbursements from the Lifeline program to operate.
19 For example, Nexus derives additional revenue from the sale of wireline and wireless
20 services to non-Lifeline subscribers, and the sale of optional replenishment airtime and
21 text minutes. Nexus is one of only a few Lifeline providers that actually provides a sub-
22 \$5.00 additional airtime card (\$3.00 for 20 minutes), understanding that Lifeline
23 subscribers are economically challenged and the ability to have access to a \$3.00 airtime
24 card is a cost savings for cash-strapped South Carolina families.

1 **Q. HAS NEXUS APPLIED FOR OR BEEN GRANTED ETC DESIGNATION IN**
2 **ANY OTHER STATES?**

3 A. Yes. Indeed, Nexus provides Lifeline service to consumers as an ETC using wireline
4 technology in South Carolina, as well as in Alabama, Florida, Kentucky, North Carolina,
5 Oklahoma, Tennessee, and Texas; it serves consumers using both wireline and wireless
6 technology to Low Income participants in Arkansas, Illinois, Kansas, Louisiana,
7 Michigan, Mississippi, and Wisconsin. It uses only wireless technology to serve low
8 income consumers in California, Georgia, Iowa, Maine, Maryland, Missouri, Nevada,
9 New Jersey, Ohio, Rhode Island and West Virginia. It has also been granted wireless
10 ETC designation in Indiana, Oklahoma and Texas, but has not yet commenced wireless
11 service in those states. Nexus continues to prepare applications for filing in a number of
12 additional states within the first quarter of 2013 and throughout the coming year.

14 **Q. PLEASE DESCRIBE THE COMPANY’S PROPOSED LIFELINE SERVICE**
15 **OFFERINGS FOR SOUTH CAROLINA.**

16 A. Of course. As explained in its Application, the Company will feature two basic Lifeline
17 service packages throughout its designated service area in South Carolina. The
18 Company’s primary proposed Lifeline programs are as follows.

- 19 • 250 Minute Plan (non-rollover): Minutes are “anytime” minutes and can be used
20 for domestic calls, including local or intrastate/interstate long distance calls.
21 Unused minutes or domestic Short Message Service (“SMS”) text messages do
22 not carry over to the following month. SMS text messaging is available at a rate
23 of one text per minute of airtime.
- 24 • 125 Minute Plan (rollover): Minutes are “anytime” minutes and can be used for
25 domestic calls, including local or intrastate/interstate long distance calls. Unused
26 minutes or domestic SMS text messages carry over to the following month. SMS
27 text messaging is available at a rate of one text per minute of airtime.

- In addition, Nexus offers, but does not actively market, a 68 Minute Plan (with rollover). Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. Domestic SMS text messaging is available at a rate of two text messages per each minute of airtime. Although available to subscribers, it is rarely selected except by a few subscribers who infrequently use voice service and more frequently send text messages.

Both customer service (611) and emergency (911) calls will be free, regardless of service activation or availability of minutes, and these calls will not count against a customer’s airtime. All plans also include at no extra charge: free 911-compliant handset; and “anytime” nationwide minutes that can be used for domestic calls, including local or intrastate/interstate long distance calls.

Lifeline subscribers may purchase additional minutes on a prepaid basis in denominations of \$3.00 (20 minutes), \$5.00 (40 minutes), \$10.00 (120 minutes), \$20.00 (300 minutes), \$30.00 (500 minutes), and \$50.00 (950 minutes). Nexus also offers an unlimited talk and text additional airtime card. This card provides unlimited local and domestic long distance calling, and unlimited text messaging for thirty (30) calendar days. The cost to Lifeline subscribers is \$26.50.

International SMS text messaging is available at a rate of \$0.20 for each international text sent or received. The rate for directory assistance calls is \$1.50 per request. Nexus permits Lifeline subscribers to block international calls at no additional charge. Calls from the handset checking or retrieving voicemails count against the voice minutes provided by the plan. Calls from a source other than the handset checking or retrieving voicemail messages and incoming calls that leave a voicemail message are free to the

1 Nexus end user. Calls to 911 emergency services are always free, and may be made
2 regardless of service activation or availability of minutes.

3 Additional information regarding the Company's proposed plans, rates and services can
4 be found on its website at www.reachoutwireless.com, or in its approved FCC
5 Compliance Plan, attached to the Application as Exhibit H.

6
7 **Q. ARE THERE ADDITIONAL TERMS AND CONDITIONS ASSOCIATED WITH**
8 **NEXUS' LIFELINE SERVICE PLANS?**

9 A. Yes. The Company's Terms and Conditions are provided to customers upon request and
10 are available on Nexus' website at www.reachoutwireless.com.

11
12 **Q. WOULD DESIGNATION OF NEXUS AS AN ETC IN SOUTH CAROLINA**
13 **SERVE THE PUBLIC INTEREST?**

14 A. Absolutely. Designation of Nexus as an ETC for Lifeline purposes in South Carolina
15 will ensure that South Carolina consumers have another choice among carriers. More
16 importantly, it will ensure the availability of high-quality mobile service to a population
17 that uniquely benefits from such services. As discussed in Nexus' Application, low-
18 income consumers often work in migratory jobs and may have an above-average
19 frequency of moving between residences. Wireless service ensures availability of
20 reliable voice and texting service, even as a customer is "between" homes and/or jobs.
21 Of equal importance, prepaid wireless such as that offered by Nexus protects low-income
22 consumers from the potentially devastating impact of hidden costs, unexpectedly high
23 monthly charges and long-term contract issues common among the larger carriers. With

1 Nexus' wireless service packages, customers will enjoy the considerable savings of all-
2 distance domestic calling, and be spared the burdensome expense of long distance calling
3 charges. The inclusion of texting service in the Company's basic service packages will
4 provide customers with an increasingly essential tool for family coordination and work
5 management. Those who experience an unexpected sudden need for more airtime will be
6 easily able to "top-up" minutes on a one-time basis. In a persistently challenging
7 economy, low-income consumers need all these tools at an affordable rate. Because
8 Nexus does not impose credit checks or collect deposits, the Company's services will be
9 readily available to consumers with the greatest need. Nexus' flexible service offerings
10 will allow these customers to tailor their services to meet their own individual needs.
11 Nexus' prepaid pricing plans will enable them to anticipate their monthly expenditures,
12 avoiding the all-too-common experience of cell service "invoice shock." Finally, Nexus'
13 offering of these consumer-friendly service packages in the South Carolina
14 telecommunications market should motivate other carriers to improve their own
15 competitive offerings, to the benefit of all South Carolina wireless customers.

16
17 **Q. WILL DESIGNATION OF NEXUS AS AN ETC IN SOUTH CAROLINA HAVE**
18 **ANY EFFECTS UPON COMPETITION IN THE STATE?**

19 **A.** Very likely. As I was just noting, Nexus' entry into the South Carolina market for
20 telecommunications services should apply a degree of pressure on other providers to
21 increase the competitive caliber of their service offerings.

1 **Q. WILL DESIGNATION OF NEXUS AS AN ETC IN SOUTH CAROLINA HAVE**
2 **ANY ADVERSE EFFECT UPON THE UNIVERSAL SERVICE FUND?**

3 A. No, it will not. Nexus is seeking reimbursement for federal Lifeline services only,
4 whereas the vast bulk of federal Universal Service Fund (“Fund”) expense arises from the
5 high cost fund subsidies. The FCC has confirmed that the advantages of adding a
6 Lifeline-only ETC outweigh any potential disadvantages, including the effect on the
7 Fund.⁵ Further, it warrants mention that Lifeline subsidies are customer-specific and
8 remain the same regardless of which carrier provides the services. While Nexus’
9 presence in the market likely will increase participation in the Lifeline program, a portion
10 of the reimbursement funding triggered by the Company’s operations will simply reflect
11 customer migration among Lifeline providers. The customers that transfer to Nexus’
12 services will receive a superior service package; however, the Lifeline reimbursement
13 amount associated with each customer -- and thus the expense to the Fund -- will not
14 change.

16 **Q. WILL NEXUS COMPLY WITH THE REQUIREMENTS FOR LIFELINE**
17 **ELIGIBILITY CERTIFICATION AND VERIFICATION?**

18 A. Yes. Nexus is committed to full compliance with the requirements of the FCC and this
19 Commission regarding certification and verification of a customer’s qualification for
20 Lifeline service and has implemented procedures to ensure the requirements are met. As
21 described in Nexus’ Compliance Plan (which was submitted as Exhibit H to the
22 Company’s Application), the Company has developed detailed and comprehensive

⁵ *See TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Order, FCC 08-100, ¶16, n. 47 (2008).

1 procedures to address customer certification and verification requirements as well as the
2 requirements concerning de-enrollment and duplication of service. These procedures
3 comply fully with the FCC's recently-revised customer certification and verification
4 requirements. Nexus also commits to comply with the FCC's annual certification
5 requirement, as well as the FCC's measures to prevent waste, fraud and abuse of Lifeline
6 services. The Company understands that effective elimination of wasteful and/or
7 fraudulent drains on limited Lifeline funding can only be achieved through ongoing
8 coordination with key state agency personnel. For this reason, Nexus commits to work
9 collaboratively with ORS and other appropriate agencies to ensure the initial and
10 continued eligibility of its South Carolina Lifeline customers.

11
12 **Q. HOW DOES THE COMPANY'S DE-ENROLLMENT PROTOCOL WORK ?**

13 A. From the beginning of its wireless operations in 2009, Nexus voluntarily adopted a
14 policy—and was a vocal advocate for industry-wide adoption of a policy-- whereby a
15 subscriber who has not used his or her handset within 60 days is de-enrolled from the
16 Lifeline program (after a 30-day notice period). Upon deenrollment, Nexus ceases
17 seeking Lifeline reimbursements for that subscriber. Nexus' nonusage policy ensures that
18 only subscribers who actually utilize their wireless service continue to receive Lifeline-
19 subsidized service, and that Nexus only receives Lifeline support for those subscribers
20 who remain enrolled in the program. Nexus commits to continuing this practice in
21 conformance with the requirements of 47 C.F.R. § 54.405(e)(3). Specifically, after 60
22 days of non-use, Nexus provides notice to the subscriber that failure to use the Lifeline
23 service or provide other confirmation to Nexus that the subscriber wishes to retain his or

1 her Lifeline service within 30 days from the date of the de-enrollment notice will result in
2 de-enrollment from the Lifeline program. Nexus will not request further Lifeline
3 reimbursement for any de-enrolled subscriber and Nexus will report annually to the FCC
4 the number of subscribers de-enrolled for non-usage by month.

5 As discussed in its FCC Compliance Plan, Nexus commits to full compliance with the
6 FCC's rules requiring de-enrollment of Lifeline customers after 60 days of non-use. The
7 Company will contact all customers found not to have used their service for 60 days.

8 These contacts will be made using a combination of first-class mail, text messages and/or
9 phone calls and will clearly alert the customers that continued failure to use their Lifeline
10 service within a subsequent 30-day period will result in de-enrollment and loss of service.

11 Subscribers will be instructed as to the means by which they can "use" the service and
12 avoid de-enrollment. *See* Compliance Plan at 19. In addition, Nexus will comply with
13 the FCC's rules regarding de-enrollment of customers that fail to recertify their eligibility
14 for Lifeline service on an annual basis. In addition, Nexus will de-enroll subscribers that
15 do not respond to the annual verification or fail to provide the required certification.⁶

16 Nexus will send a written notice explaining that failure to respond to the re-certification
17 request within 30 days will result in the subscriber's de-enrollment from the Lifeline
18 program. If the subscriber does not respond within the 30 days, the Company will de-
19 enroll the subscriber within five business days. *See* Compliance Plan at 19.

⁶ *See* Lifeline Reform Order, ¶ 142; 47 C.F.R. § 54.405(e)(4).

1 **Q. HOW WILL NEXUS ENSURE THAT PROSPECTIVE CUSTOMERS COMPLY**
2 **WITH THE “ONE-PER-HOUSEHOLD” RULE FOR LIFELINE SUPPORT?**

3 A. As described in full detail in Nexus’ Compliance Plan, Nexus’ efforts to ensure that
4 customers receive only one Lifeline benefit per household more than comply with the
5 FCC’s rules and extend throughout its marketing, enrollment and recertification
6 processes. First, all Nexus marketing materials will include a disclosure stating that only
7 one Lifeline discount may be received per household, which is consistent with the
8 requirements of the FCC’s new rules. Second, at the outset of the Lifeline enrollment
9 process applicants are asked if their household currently receives a Lifeline benefit from
10 any provider, and Nexus will provide the specific names of several major Lifeline
11 providers in the state, which is not required by the FCC’s rules but Nexus has
12 implemented as a policy. As part of the enrollment process, customers are informed
13 about the one per household requirement, including the definition of household. To
14 enroll, applicants must certify that their household is not already receiving a Lifeline
15 service benefit. As part of the enrollment process, applicant names and addresses will be
16 checked against an internal Nexus database to avoid duplicate benefits. Finally,
17 customers are required to again certify that they are not receiving more than one Lifeline
18 benefit per household as part of the eligibility recertification process.

1 **Q. WILL NEXUS COMPLY WITH ALL OTHER FCC AND COMMISSION RULES**
2 **APPLICABLE TO ETC OPERATIONS IN SOUTH CAROLINA?**

3 A. Yes. The Company stands by the commitments asserted in its Application to comply
4 with the rules and regulations of the FCC and of this Commission with respect to
5 provision of Lifeline services in South Carolina, except as waived by the Commission.
6

7 **Q. WILL NEXUS TIMELY PAY ALL APPLICABLE FEDERAL, STATE AND**
8 **LOCAL REGULATORY FEES AND ASSESSMENTS APPLICABLE TO ITS**
9 **ETC OPERATIONS IN SOUTH CAROLINA?**

10 A. Yes, it will. Nexus acknowledges and accepts its obligations with respect to payment of
11 federal, state and local regulatory fees, taxes and assessments (including subscriber
12 assessment where required).
13

14 **Q. WHEN WILL NEXUS BE READY TO OFFER LIFELINE SERVICES IN SOUTH**
15 **CAROLINA?**

16 A. Nexus is currently finalizing its arrangements in order to be ready to initiate operations
17 promptly after the Commission grants the Company's Application.
18

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

VERIFICATION

STATE OF OHIO §
 §
CITY OF COLUMBUS §

I, Steven Fenker, first duly sworn, on my oath and in my capacity as Owner and President of Nexus Communications, Inc., state that I am authorized to provide Testimony on behalf of Nexus Communications, Inc., and have knowledge of the matters stated in this Testimony, and that said matters are true and correct to the best of my knowledge and belief.

Name: Steven Fenker
Title: Owner and President
Nexus Communications, Inc.


Signature

Subscribed and sworn to (or affirmed) before me, Steven Fenker, Notary Public, on this 28 day of February, 2013 by Steven Fenker, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

WITNESS my hand and official seal.

My Commission Expires: 3/10/2014


Notary Public

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2013-15-C

IN RE:)	
)	
)	
Application of Nexus Communications, Inc.)	
for Designation as a Wireless Eligible)	CERTIFICATE OF SERVICE
Telecommunications Carrier for Low Income)	
Support Only Pursuant to 47 USC § 214(e))	

This is to certify that I have caused to be served this day, one (1) copy of the **Verified Direct Testimony of Steven Fenker** by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

VIA ELECTRONIC MAIL SERVICE

C. Lessie Hammonds, Esq.
Office of Regulatory Staff
Legal Department
1401 Main Street, Suite 900
Columbia SC 29201

s/ Carol Roof _____
Carol Roof, Paralegal

February 28, 2013
Columbia, South Carolina